

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX XXXXX
Petitioner
v

File No. 87569-001

Time Insurance Company
Respondent

Issued and entered
this 28th day of March 2008
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On January 16, 2008, XXXXX XXXXX filed a request for an external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The request was reviewed and determined to be incomplete because XXXXX had not been expressly authorized to be the representative of XXXXX XXXXX (Petitioner) in this matter. The Petitioner is a minor. After the Petitioner's mother authorized XXXXX to be the Petitioner's representative, the request was complete and the Commissioner accepted it on February 1, 2008.

The Commissioner notified Time Insurance Company (Time) of the external review and requested the information used in making its adverse determination. Information from Time was received on January 23, 2008.

II
FACTUAL BACKGROUND

The Petitioner, born February 23, 1995, has health care coverage as a dependent of her

father under a small group plan underwritten by Time.

The Petitioner has been diagnosed with idiopathic short stature (ISS). A preauthorization request was submitted to Time for Genotropin, a recombinant growth hormone for the treatment of long-term growth failure associated with ISS. Time denied coverage, saying the treatment was considered cosmetic and not medically necessary.

The Petitioner appealed. Time reviewed the claim but upheld its denial and issued a final adverse determination dated November 16, 2007.

III ISSUE

Was Time correct in denying coverage for the Petitioner's growth hormone treatment?

IV ANALYSIS

Petitioner's Argument

The Petitioner's authorized representative says that the Petitioner is of extreme short stature, having achieved only 94.1% of her predicted height at the age of 12. The Petitioner's physician says she can expect to reach an adult height of only 4 feet 5 inches.

The Petitioner's authorized representative says ISS is not a growth hormone deficient condition but rather a growth hormone resistant condition which can be overcome by the exogenous administration of Genotropin (recombinant growth hormone). The authorized representative acknowledges that the Petitioner has no underlying medical diagnosis but says the effects of the growth hormone are increased height, increased muscle mass, reduced fat mass, a beneficial effect on lipid metabolism, and an alteration in carbohydrate metabolism. There are also psychosocial ramifications associated with short stature.

The Petitioner believes Time should provide coverage for Genotropin for the treatment of her ISS.

Time Insurance Company's Argument

Time asserts that its decision to deny coverage of the Petitioner's proposed growth hormone treatment was correct. Time says the Petitioner's certificate of insurance (the certificate) excludes coverage for treatments which are considered cosmetic. The relevant certificate provisions state under:

VIII. Cosmetic Treatment or Surgery/Dental and Vision Related Benefits

* * *

We will not cover charges

1. For Cosmetic treatment or surgery, or any complication therefrom, that is not due to any of the reasons listed in the covered charges above.

"Cosmetic" is defined as plastic surgery, cosmetic surgery or other treatment to preserve, improve, alter or enhance a person's appearance, whether or not for psychological or emotional reasons.

In addition, the certificate's outpatient prescription drug benefit contains this exclusion:

Charges Not Covered

* * *

16. For any drug used for Cosmetic Purposes or to promote growth (e.g., growth hormone).

Time's health management services department reviewed the medical documentation submitted and determined that the Petitioner's blood tests and bone age were within normal limits and that she does not have documented growth hormone deficiency or other disease for which growth hormone is indicated. Time says the only outcome of treatment with Genotropin is an increase in adult height, i.e., a cosmetic result.

Time concluded that under the terms and limitations of the Petitioner's certificate, the preauthorization request for Genotropin was correctly denied.

Commissioner's Review

At the time the Commissioner accepted this case for external review, it appeared that it involved medical issues so it was assigned to an independent review organization (IRO). The IRO provided its analysis to the Commissioner on February 20, 2008. The IRO expert reviewing this case is board certified in pediatric endocrinology, holds an academic appointment, and has been in

practice for more than 10 years.

The IRO expert concluded that growth hormone therapy is medically necessary to treat the Petitioner's condition, explaining that she falls under the Food and Drug Administration's guidelines for growth hormone therapy because of her extreme idiopathic short stature. However, medical necessity is not the dispositive test for coverage under the Petitioner's health plan. Even medically necessary services and treatments may be excluded in certain circumstances.

In reviewing this case under the Patient's Right to Independent Review Act, the Commissioner is bound by the terms and conditions of the Petitioner's certificate unless those terms and conditions are ambiguous or violate state law.

The Petitioner's certificate contains a clear and unambiguous exclusion for drugs that promote growth. On page 41 of the certificate it says:

Covered Outpatient Prescription Drug Charges do not include any charges:

* * *

16. For any drug used for Cosmetic purposes or to promote growth (e.g., growth hormone).

It is undoubtedly true that the Petitioner needs Genotropin if she is to achieve improved adult height, and in that sense the growth hormone therapy is medically necessary for her. But Time's decision to exclude coverage for growth hormone drugs does not violate state law. The Commissioner must apply the terms of coverage as they appear in the certificate, and here the Commissioner finds that human growth hormone drugs are not a benefit of the Petitioner's health care coverage.

The Commissioner finds that Time's denial of coverage was correct.

V ORDER

The Commissioner upholds Time Insurance Company's final adverse determination of November 16, 2007. The company is not required to provide coverage for the Petitioner's growth hormone therapy.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.